

Release
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Release # 37/98

**SUMMARY OF CASES ACCEPTED
DURING THE WEEK OF SEPTEMBER 14, 1998**

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#98-125 Aas v. Superior Court, S071258. (D030218, D030399; 64 Cal.App.4th 916.) Petition for review after the Court of Appeal denied petitions for peremptory writ of mandate. This case includes the issue whether homeowners associations and individual owners of mass-produced housing may recover damages in negligence actions against developers and contractors for construction defects involving violations of minimum, code-established standards in the absence of either personal injury or physical damage to property.

#98-126 Daily Journal Corp. v. Superior Court, S072133. (G022076; 64 Cal.App.4th 1203, mod. 65 Cal.App.4th 573g.) Petition for review after the Court of Appeal affirmed an order of the superior court. This case concerns whether the superior court has inherent authority to release grand jury transcripts of a criminal proceeding which was terminated before deliberations and, if so, what, if any, procedures are required before doing so.

#98-127 Etcheverry v. Tri-Ag Service, Inc., S072524. (C024045; 65 Cal.App.4th 467.) Petitions for review after the Court of Appeal reversed a summary judgment in a civil action. This case concerns whether state law claims for failure to warn about damages that can result from the use of pesticides are

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preempted by the Federal Insecticide, Fungicide, and Rodenticide Act. (See 7 U.S.C. § 1316 et seq.)

#98-128 People v. Superior Court (Laff), S063662. (B114101; 64 Cal.App.4th 414.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case is concerned with who should bear the cost of a referee appointed to help the trial court review documents seized pursuant to a warrant from a lawyer's office when no criminal charges have been filed.

#98-129 Maxwell v. Beverly Enterprises-California, Inc., S071672. (A073149, A074535; 64 Cal.App.4th 231.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case, in which briefing has been deferred, concerns whether a supervisor must make corporate policy in order to be a "managing agent" for purposes of imposing punitive damages on the corporation for his or her conduct. (See Civ. Code, §3294(b).)

#98-130 People v. Meeks, S071792. (E019847.) Unpublished opinion. Petition for review after the Court of Appeal dismissed an appeal. This case presents an issue concerning whether the superior court may entertain a belated application for and issue a certificate of probable cause while a postplea appeal is already pending in the Court of Appeal, which is related to an issue before the court in People v. Mendez, S066175. (See #98-11.)

#98-131 People v. Tufunga, S072486. (A076665; 65 Cal.App.4th 287.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to (1) whether the trial court erred in denying defendant's request for a claim of right instruction in a robbery prosecution and (2) whether the Court of Appeal denied due process by determining that defense was no longer available on public policy grounds even though there was substantial evidence at trial to support the instruction under then-existing law.

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